

Remarks

Reconsideration of this Application is respectfully requested.

Claims 1-8 are pending in the application, with claims 1 and 5 being the independent claims. Based on the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections Under 35 U.S.C. § 103

The Examiner has rejected pending claims 1-8 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,411,986 to Susai *et al.* (*hereinafter* "the '986 patent") in view of U.S. Patent No. 5,964,836 to Rowe *et al.* (*hereinafter* "the '836 patent"). Applicants respectfully traverse this rejection.

The '986 patent was filed on Nov. 19, 1998 and issued on June 25, 2002. The above-captioned application was filed on October 18, 2000. Thus, the '986 patent is at best prior art under §102(e). Additionally, the '986 patent and the above-captioned application are both assigned to Netscaler, Inc. Section 103(c) states that "[s]ubject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time of the invention was made, owned by the same person or subject to an obligation of assignment to the same person." The inventors on the above-captioned application had an obligation to assign their rights in the invention to Netscaler at the time the invention was conceived. See also MPEP § 706.02(L). In fact, they assigned their rights to Netscaler prior to the filing of the above-captioned application. This assignment was recorded at Reel/Frame 011217/0210. Thus, the rejection under 35 U.S.C. § 103 is improper. Applicants respectfully request that the rejection be withdrawn.

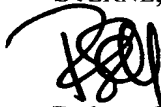
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

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